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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/567,957

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Alfredo C. Fajardo

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SAN JOSE, CA 95113

EXAMINER

SHAIKH, MOHAMMAD Z

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/567,957	<b>Applicant(s)</b> FAJARDO, ALFREDO C.	
	<b>Examiner</b> MOHAMMAD Z. SHAIKH	<b>Art Unit</b> 3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25, 50-75 and 80-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25, 50-75, 80-82 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This office action is response to an AMENDMENT filed on 08/26/08 for patent application 10/567,957.

***Status of Claims***

2. Claims 1-25, 50-75, 80-82 are pending in this application.
3. Claims 26-50, 76-76-79.
4. Claims 1,4-6, 11, 13-15, 17-19, 22-24, 50, 52-54, 56, 58-62, 64-69, 71, 73, 75 have been amended.

***Claim Rejections- 35 U.S.C § 101***

5. Examiner is withdrawing the rejection for claims 26, 31, 42.

***Claim Rejections- 35 U.S.C § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 4-23, 54-62, 67, 69-73, 50-53, 63-66, 74, 80-82 are being rejected under 35 U.S.C § 103(a) as being unpatentable over UK PATENT APPLICATION (GB 2372615) to MacNamee in view of WO/2001/088809 to Anuszewski et al, herein Anuszewski.

Regarding claim 1, MacNamee discloses a system for facilitating payment via a communications network using value accredited to a customer of an operator of the communications network, the system comprising: a first communications device owned

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and/or operated by the customer, the first communications device operable via the communications network (Abstract; Fig 2); a billing system operable to provide billing functions to the operator for use of the communications network, both the customer and the payment facilitator each having at least one account with the operator and recorded with the billing system ; and a recipient, where, when the payments facilitator receives a communications message from the customer, the communications message being sent by means of the first communications device, the payments facilitator operates to instruct the billing system to debit an amount to be paid to the recipient from the customer's at least one account and operates to instruct the billing system to credit the amount to be paid to the recipient to the payments facilitator's at least one account and, wherein, the payments facilitator then operates to make a payment to the recipient equal to the amount to be paid (pages 17-18). However MacNamee does not disclose a payment facilitator. Anuszewski discloses a payment facilitator (Abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Anuszewski's invention to include a payment facilitator. One of ordinary skill in the art would have been motivated to include a payment facilitator in order to ensure that the entire payment process operates as efficiently as possible.

Claim 4-15, 54-62, 67, 69-73 are being rejected using the same rationale as claim 1.

Regarding claim 16, MacNamee discloses a system for facilitating payment according to claim 14 or claim 15. MacNamee further discloses where the payments facilitator identifies the recipient by comparing a unique merchant identifier embodied in

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the communications message, associated with the destination address, or included within the destination address, as appropriate, against unique merchant identifiers stored in a merchant look-up table, each unique merchant identifier in the merchant look-up table being associated with further information in respect of the merchant (page 23).

Regarding claim 17, MacNamee discloses a system for facilitating payment according to claim 1 or 6. MacNamee further discloses where the instruction to the billing system to debit the amount to be paid takes the form of a command representative of the customer having initiated a communication using the first communication device having a tariff rate closest to the amount to be paid to the recipient (page 2).

Regarding claim 18, MacNamee discloses a system for facilitating payment via a communications network using value accredited to a customer of an operator of the communications network, the system comprising: a first communications device owned and/or operated by the customer, the first communications device operable via the communications network (Abstract; Fig 2); a billing system operable to provide billing functions to the operator for use of the communications network, both the customer and the payment facilitator each having at least one account with the operator and recorded with the billing system ; and a recipient, where, when the payments facilitator receives a communications message from the customer, the communications message being sent by means of the first communications device, the payments facilitator operates to instruct the billing system to debit an amount to be paid to the recipient from the

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customer's at least one account and operates to instruct the billing system to credit the amount to be paid to the recipient to the payments facilitator's at least one account and, wherein, the payments facilitator then operates to make a payment to the recipient equal to the amount to be paid (pages 17-18). However MacNamee does not disclose a payment facilitator. Anuszewski discloses a payment facilitator (Abstract). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Anuszewski's invention to include a payment facilitator. One of ordinary skill in the art would have been motivated to include a payment facilitator in order to ensure that the entire payment process operates as efficiently as possible. MacNamee further discloses where, when the payments facilitator receives a communications message from the customer, the communications message being sent by means of the first communications device, the payments facilitator issues an instruction to the billing system in the form of a command representative of the customer having initiated a communication using the first communication device having a tariff rate closest to the amount to be paid to the recipient and operates to issue an instruction to the billing system in the form of a command representative of the recipient having made a payment to the operator equal to the amount to be paid to the recipient (page 3).

Claims 19-23, 50-53, 63-66, 74, 80-82 are being rejected using the same rationale as claim 18.

8. Claims 2 are being rejected under 35 U.S.C. 103(a) as being unpatentable over MacNamee in view of Anuszewski and further in view of US 2002/0147658 to Kwan.

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Regarding claim 2, MacNamee discloses a system for facilitating payment according to claim 1. However MacNamee does not disclose where the communications message identifies a method of payment, the payments facilitator thereafter operable to make a payment to the recipient equal to the amount to be paid according to the identified method of payment. Kwan discloses where the communications message identifies a method of payment, the payments facilitator thereafter operable to make a payment to the recipient equal to the amount to be paid according to the identified method of payment ([0012]). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify MacNamee's invention to include where the communications message identifies a method of payment, the payments facilitator thereafter operable to make a payment to the recipient equal to the amount to be paid according to the identified method of payment. One of ordinary skill in the art at the time of the invention would have been motivated to include where the communications message identifies a method of payment, the payments facilitator thereafter operable to make a payment to the recipient equal to the amount to be paid according to the identified method of payment in order to ensure that the entire payment process operates as efficiently as possible.

9. Claim 3 is being rejected under 35 U.S.C § 103(a) as being unpatentable over MacNamee in view of Anuszewski and Kwan and further in view of US 2001/0037254 to Glikman.

Regarding claim 3, MacNamee discloses a system for facilitating payment according to claim 2. However MacNamee does not disclose where the method of

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payment is one of the following: electronic transfer; cheque; legal tender. Glikman discloses where the method of payment is one of the following: electronic transfer; cheque; legal tender (paragraphs: 007, 009, and 0010). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify MacNamee's invention to include the method of payment as one of the following: electronic transfer; cheque; legal tender. One of ordinary skill in the art would have been motivated to include the method of payment as one of the following: electronic transfer; cheque; legal tender in order to ensure that all types of payment are available to the user.

10. Claims 24-25,68,75 are being rejected under 35 U.S.C 103(a) as being unpatentable over MacNamee in view of Anuszewski and further in view of Glikman and further in view of Official Notice.

Regarding claim 24, MacNamee discloses a system for facilitating payment according to any preceding claims 1, 6, or 18. However, MacNamee does not disclose an operation to instruct the billing system to debit the amount to be paid to the recipient to the identified recipient's at least one account. Glikman discloses an operation to instruct the billing system to debit a further amount from the customer's (paragraph 0069, Fig 13: 910). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify MacNamee's invention to include an operation to instruct the billing system to debit a further amount from the customer's. One of ordinary skill in the art would have been motivated to include an operation to instruct the



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billing system to debit a further amount from the customer's in order to ensure that all parts of the billing process are available on one network. MacNamee does not disclose an account representative of commission and/or transaction costs. *Official Notice* is taken that commission and transactions pertaining to accounts are old and well known in the art. One of ordinary skill in the art would have been motivated to include that commission and transactions pertaining to accounts in order to ensure that the service provider is properly compensated.

Claim 25 is being rejected using the same rationale as claim 24.

Claim 48 is being rejected using the same rationale as claim 24.

Claim 68 is being rejected using the same rationale as claim 24.

Claim 75 is being rejected using the same rationale as claim 24.

### ***RESPONSE TO ARGUMENTS***

Applicants arguments with regards to amended claims 1,4-6,11,13-15,17-19,22-24,50,52-54,56,58-62,64-69, 71,73, 75 have been fully considered but are not persuasive.

On page 17, applicant argues that the Kwan reference does not teach "crediting a separate payments facilitator/third party account with the operator" However Anuszewski discloses this limitation (Abstract). On page 18, applicant argues that Kwan nor Glikman teaches " the payments facilitator communicates with the recipient to specify an amount to be transferred" or communicating with a recipient to specify the amount to be paid to the recipient". However McNamee discloses this limitation (Abstract). On pages 18-19, applicant argues that "instruction to the billing system in the form of a command representative of the customer having initiated communication using the first communication device having a tariff rate closest to the amount to be paid to the recipient and operates to issue an instruction to the billing system in the form of a command representative of the recipient having made a payment to the operator equal to the amount to be paid to the recipient". However MacNamee discloses this limitation (pages 2-3). On page 20, applicant further argues that "both the customer and the payment's facilitator each have at least one account with the operator and recorded with the billing system". However MacNamee discloses this limitation (page 26). Applicant further argues on page 26, argues that Plush does not disclose "payments facilitator operates to instruct the billing system to debit the amount to be paid... the recipient". However MacNamee discloses this limitation (pages 2-4).

### **CONCLUSION**

Applicant's amendment necessitate the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMMAD Z. SHAIKH whose telephone number is (571)270-3444. The examiner can normally be reached on Monday-Friday (7:30-5); alt Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dixon can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. Z. S./  
Examiner, Art Unit 3696  
12/20/2008

Mohammad Z Shaikh  
Examiner  
Art Unit 3696

**/Daniel S Felten/**

**Primary Examiner, Art Unit 3696**